

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

UNITED STATES OF AMERICA

v.
DANIEL CHASE HARRIS

Case No. 2:14cr76

**DEFENDANT DANIEL CHASE HARRIS' SUPPLEMENTAL POSITION WITH RESPECT TO
SENTENCING FACTORS**

COMES NOW the defendant, Daniel Chase Harris, by counsel, and as and for his Supplemental Position With Respect To Sentencing Factors, respectfully states the following in support thereof:

3553 (a) FACTORS

H. Need To Avoid Unwarranted Sentencing Disparities

In the Government's position paper at pp.24-25, the Government cites six (6) isolated cases, with filing dates between 2010 and 2013, in this Court, in which sentences for production of child pornography are cited as examples of typical sentences.

However, the Government's cited examples are by no means an exhaustive survey, nor are they necessarily a representative sample of cases.

Rather, the defendant would cite research data provided to defense counsel from the National Center on Institutions and Alternatives (NCIA), and Mr. Herb Hoelter.

The NCIA reviewed all cases between January 12, 2005 and September 30, 2014 in the Eastern District of Virginia, the Fourth Circuit, and then Nationwide, for defendants convicted of violating statutes scored according to U.S.S.G. 2G2.1, 2G1.3, and 2G2.2, with a primary offense Guideline of 2G2.1 as the defendant did.

During that 9-year survey of all cases, according to the NCIA, there were 1,346 Criminal History I defendants sentenced for violating statutes scored according to the above three Guidelines, with a primary Guideline of 2G2.1 as the defendant did. According to the NCIA, the average sentence length across all courts under this category is 256.6 months imprisonment. 85 of those defendants were convicted after a trial. The average sentence imposed for those 85 trial defendants was 306 months imprisonment.

Further, according to the NCIA, during that 9-year period, there were 43 defendants sentenced in the Eastern District of Virginia for statutes scored according to the above three Guidelines, with a primary Guideline of 2G2.1 as the defendant did. The average sentence length was 240.3 months imprisonment. Of the 4 defendants convicted after a trial, the average sentence was 187.5 months imprisonment.

Finally, the remainder of the Fourth Circuit sentenced 103 such defendants during that time period, with an average sentence length of 257.9 months imprisonment. 2 of these defendants were convicted after trial, with an average sentence of 270 months imprisonment.

Accordingly, the defendant respectfully submits that when considering a full 9-year study of defendants convicted of violating statutes scored according to the three most pertinent Guidelines, including a primary offense Guideline of 2G2.1 as with this defendant, the average sentences are substantially lower than the isolated instances set forth in the Government's selected table. Moreover, given that the figures above reflect merely an averaging of sentences, such figures lend further support to the defendant's request of the fifteen year mandatory minimum (180 months) which would certainly fall well within the range of sentences giving rise to the averages cited above.

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